



State of Wisconsin

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STEPHEN R. MILLER
CHIEF

March 7, 2014

MEMORANDUM

To: Representative Johnson

From: Joseph T. Kreye, Sr. Legislative Attorney, (608) 266-2263

Subject: Technical Memorandum to **2013 AB 832** (LRB-3943/1) by **DOR**

We received the attached technical memorandum relating to your bill. This copy is for your information and your file.

If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

MEMORANDUM

March 6, 2014

TO: Joseph Kreye
Legislative Reference Bureau

FROM: Michael Wagner
Michael Oakleaf
Department of Revenue

SUBJECT: Technical Memorandum on AB 832 (LRB 3943/1) – Credit for Providing Full-time Employment to Part-time Employees

The Department has the following technical concerns with the above-referenced bill:

- In certain situations, an employer would be able to claim the credit for an employee that was hired full-time. For example, a business may hire a full-time employee (40 hours per week) on July 1. Because of the starting date, the full-time employee could work 1,040 hours during the year hired and 2080 during the next year and thereby making the employer eligible for the credit.
- Alternatively, there are situations where an employer could convert an employee from part-time to full-time and not qualify for the credit because of the timing of the change. For example, if an employer has a part-time employee in the previous year, the employer must increase that employee to full-time within the first two weeks of the taxable year (January for calendar year filers) in order to qualify for the credit. Otherwise, the employee will not work at least 2,000 hours in the credit year (assuming a 40 hour work week with no overtime) and the employer will not qualify for the credit. The employer would not be able to claim the credit in the following year either because the employee worked more than 1,200 hours.
- The job creation deduction is available for employers who increase the number of full-time employees during the year. This could be a deduction of \$4,000 (\$2,000 if gross receipts greater than \$5,000,000). It appears that an employer could qualify for both the job creation deduction and the credit under the bill for the same employees.
- With other credits related to employment, the definition of full-time employee is based on 2,080 hours of employment. In order to be consistent among the credits, it is suggested to use the following definition of full-time job be included:

"Full-time job" means a regular, nonseasonal full-time position in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays. "Full-time job" does not include initial training before an employment position begins.

- The bill provides that: "During the taxable year for which the claimant claims a credit under this subsection, the claimant employs no more than 10 employees at the claimant's

business in this state." When the 10 employee count is determined is not specified in the bill. DOR would likely have to promulgate a rule to determine the method and timing of the employee count if it is not specified in the bill.

- Proposed s. 71.10(4)(cs) of the bill requires that the credit is claimed before alternative minimum tax. A number of current law non-refundable credits are claimed after the alternative minimum tax (AMT), allowing the credit to be used to offset the AMT. The author may wish to consider allowing the credit to be used to offset the AMT.
- Under the bill, an unused credit balance may not be carried forward and credited against a future year's Wisconsin income or franchise taxes if the employer does not employ at least the same amount of employees as the year in which it earned the credit. Because it is possible in the same year to both convert employees from part-time to full-time and thus qualify for the credit and also to reduce employment below the previous year, a similar limitation should be included for the current taxable year.

Example: An employer has 6 full-time and 3 part-time employees in the prior year. During the current year, employer makes the 3 part-time employees full-time and fires 3 of the full-time employees. The net result is a decrease in employment for the year.

If you have any questions regarding this technical memorandum, please contact Michael Oakleaf at 261-5173 or via email at Michael.oakleaf@revenue.wi.gov.

cc: Rep. Johnson